DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

General Permit No. 197800056
Name of Permittee: General Public
Effective Date: June 5, 2003
Expiration Date: December 31, 2004

DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT

A general permit to perform work in or affecting navigable waters of the United States upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified by authority of the Secretary of the Army by

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO MAINTAIN, REPAIR, CONSTRUCT AND INSTALL PIERS, DOCKS, BOATHOUSES AND BOAT SHELTERS, MOORING PILES, DOLPHINS, JETTIES AND BREAKWATER STRUCTURES IN NAVIGABLE WATERS OF THE UNITED STATES IN THE STATE OF NORTH CAROLINA.

1. Special Conditions

a. Structures authorized by this general permit are piers, docks, boathouses, boat shelters, mooring piles, dolphins, jetties, groins and breakwater structures conforming to the standards contained herein. The piers, docks, boathouses and boat shelters will be pile-supported or floating structures. Mooring piles, dolphins, jetties and breakwater structures may be constructed of wood, metal, or pre-cast concrete. Groins may be constructed of wood, pre-cast concrete or rock riprap. Breakwater structures will be designed to provide for adequate water circulation landward of the structures. Other construction activities, including excavation or the discharge of excavated or fill material, are not authorized by this general permit.

b. Authorized structures located on or adjacent to federally authorized waterways will be constructed in accordance with the following setbacks:

(1) No authorized structure will extend closer to the near bottom edge of the federally authorized channel than the sum of three times the project depth plus two feet over-depth, plus ten feet. (Example: 6-foot project + 2-feet over-depth = 8 feet times 3 = 24 feet + ten feet = 34 feet setback from near bottom edge of the channel.)

(2) No authorized structure will extend closer than eighty (80) feet to the near bottom edge of the Atlantic Intracoastal Waterway with the exception of official, Corps of Engineers approved "NO WAKE ZONES". In these "no wake" areas, no authorized structure will extend closer than fifty (50) feet to the near bottom edge of the Federal channel.

(3) No authorized structure will extend closer to the near bottom edge of a federally-authorized small boat harbor or harbor of refuge than the sum of three times the project depth plus two feet over-depth. (Example: 6-foot project + 2-feet over-depth = 8 feet times 3 = 24 feet setback from near bottom edge of the channel.) This provision will only apply where there is no through channel passing through or connecting to the harbor.

c. This general permit does not authorize construction across or into any natural or manmade channel or water body so as to adversely affect navigation, or general access and views thereof, by the general public. No structure may be placed within 15 feet of a property line extended perpendicular to a channel without the concurrence of the adjoining property owner.

d. Piers, docks, boathouses, boat shelters and mooring piles authorized by this general permit may be extended or be located up to 400 feet waterward of the mean high water (MHW) elevation contour (tidal areas) or the normal water level (NWL) elevation contour (non-tidal areas) or one-third (1/3) the width of a natural water body, whichever is closer to the shoreline, except as otherwise governed by the presence of a federally maintained channel.

e. The width of a pier will not exceed six (6) feet, unless the District Engineer or his representative determines, in writing, that a greater width is necessary for safer use, to improve public access, or is necessary to support a water dependent use that cannot otherwise occur. Any portion of a dock or pier, fixed or floating, extending from the main structure and six (6) feet or less in width, is a "T" or "L" section or a finger pier. Any portion of a dock or pier, fixed or floating, greater that six (6) feet wide is a platform or deck. Adjoining platforms, decks, docks and "L" and "T" sections will not have a cumulative maximum floor area larger than 400 square feet, except if a greater area is necessary for safer use, to improve public access, or is necessary to support a water dependent use that cannot otherwise occur.

f. Boathouses and boat shelters will not be enclosed, will not exceed 400 square feet, and will not be constructed over vegetated wetlands. Boatlifts will be open and will not exceed 400 square feet.

g. Docks and piers extending over vegetated wetlands will be elevated at least three (3) feet over the wetland substrate.

h. Wooden jetties will not extend farther than 100 feet waterward of the MHW or the NWL elevation contours.

i. This general permit does not authorize the installation of fueling facilities on authorized structures.

j. Riprap groins shall not exceed a base width of 10 feet or extend more than 25 feet waterward of the mean high water or normal water level elevation contour.

k. Riprap groins must be constructed of clean rock or masonry material and be of sufficient size to prevent displacement by wave or current action.

l. Riprap groins shall not be located within primary nursery areas, SAV beds, or areas identified as essential fish habitat.

m. Floating structures will be designed to not break away and will be supported by material that will not become waterlogged or sink when punctured. Floating structures will be installed to provide for fluctuations of water elevation, and they will be designed so that the structure will not rest on the bottom at any time.

n. Breakwater structures will be no longer than 500 feet. They will have a minimum of one-inch openings between standard width (6 to 12-inch) sheathing boards and at least one, five-foot wide opening for each 100 linear feet of structure. Breakwater structures may not be constructed so as to prohibit access to estuarine waters or public trust areas.

o. The permittee will maintain the authorized work in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if he abandons the permitted activity without having it transferred to a third party.

p. If the display of lights and signals on the authorized structure is not otherwise provided for by law, such lights and signals as may be prescribed by the U.S. Coast Guard will be installed and maintained by and at the expense of the permittee.

q. It is possible that the authorized structure may be damaged by wavewash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the permitted structure and the safety of moored boats. The permittee will not hold the United States liable for any such damage.

r. This general permit does not authorize any structure or associated facility for nonwater-related use.

s. Structures and their attendant utilities, authorized by this general permit, located on lands subject to an easement in favor of the United States for the operation, maintenance, improvement, and enlargement of the Atlantic Intracoastal Waterway (AIWW), will be removed at the expense of the permittee, in the event that, in the judgment of the U.S. Army Corps of Engineers acting on behalf of the United States, the lands are needed at any time for any purpose within the scope of the easement. Permanent buildings will not be constructed within the easement.

t. This general permit does not authorize any dredging.

u. This general permit does not apply to structures within existing or proposed marinas as defined by North Carolina Administrative Code, Title 15, Subchapter 7H.0208(b)(5).

v. This general permit is not applicable to any work on Atlantic Ocean beaches.

w. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. General Conditions

a. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this general permit.

b. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this general permit, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

c. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

d. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Water Quality (NCDWQ), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.

e. The permittee will permit the Wilmington District Engineer or his representative, or other Federal resource agency personnel having compliance or monitoring issues to address, to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

f. This general permit does not convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a Coastal Area Management Act (CAMA) Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

g. Authorization provided by this general permit may be either modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this general permit shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

h. This general permit does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

i. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

j. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531). This general permit does not authorize activities, which would adversely affect federally listed endangered or threatened species. The Wilmington District's Regulatory field offices have a list of important aquatic sites in which federally listed aquatic species are known to occur. This listing can be accessed on the Wilmington District internet homepage at the following address: *http://www.saw.usace.army.mil/wetlands/regtour.htm.* The permittee must contact the appropriate field office before beginning work to determine if the proposed action will affect any federally listed aquatic species.

k. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program which prohibits any development, including fill within a floodway that results in any increase in base flood elevations.

l. At his discretion, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Charles R. Alexander, Jr.
Colonel, U.S. Army
District Engineer